BOSTON PUBLIC LIBRARY
3 9999 08653 629 7

No. 7584.92

THE TRUSTEES OF THE
PUBLIC LIBRARY
OMNIVM
LVX
CIVIVM
OF THE CITY OF
BOSTON
1852 1878

TWO LETTERS

TO

7584.92

THE EDITOR OF THE

NEW BEDFORD MERCURY.

FIRST PUBLISHED IN THE BOSTON COURIER.

BY GEORGE T. CURTIS.

BOSTON:
PRINTED BY ALFRED MUDGE & SON,
No. 21 SCHOOL STREET.
1854.

From Bph. Vol. 200
21,754

PUBLIC LIBRARY
OF THE
CITY OF BOSTON

LETTERS.

I.

Boston, June 7, 1854.

TO THE EDITOR OF THE NEW BEDFORD MERCURY.

Sir,—An exceedingly offensive article of an editorial form, in your paper of the 1st inst., has been sent to me through the post office, by an illiterate and anonymous correspondent, who states that an old friend of mine volunteered to pay the postage on his communication. The article does not refer to me by name, but the facts make it sufficiently apparent that you intended to refer to me, and to apply to me the gross epithets which you saw fit to employ. The article is as follows:—

"VOLUNTEER CATCHPOLES.—Tastes differ, and we can understand how, in meat, drink, and other sensual matters, individuals can be found to like what the majority of mankind loathes. But how any man can volunteer to hunt fugitive negroes is what we cannot comprehend. The office of hangman has never been thought a very pleasant one, but between putting the rope around the neck or the wrists of the victim, we think the comparative honor is in the former process, because strangulation does send a man out of his misery at once, while the "extradition," as they politely term it, is only the commencement of a life of suffering. It is said that somebody must execute the law. So somebody must do other dirty and menial offices; but it does not follow that gentlemen should jostle each other to engage in them. It is not with the act itself, but the actors that we quarrel; for, of course, while there are disagreeable duties, there will be disagreeable people to perform them.

It may be a pleasing thing to stand well with the administration at Washington—it may bring place, praise and pennies; but how any man can be willing to purchase Pierce's offices and telegraphic commendations at such a price, is a marvel. Party is to some eyes the most important thing in life; but if a man must be wedded to it, body, soul and spirit, why not select a respectable object of his affections? And if the itch for office and for a little brief authority cannot be assuaged

in any other way, instead of seeking to be commissioners or marshals, why not struggle to be captain of an engine company, or a member of the school committee?

We are led into this train of reflection by seeing in the papers that somebody has been trying to do a certain United States Commissioner of Boston a service by repeating falsely—certainly not maliciously—that he has avowed his intention of giving no more warrants in fugitive slave cases. Mr. Commissioner resents this rumor as an attempt to injure him in his business, and goes to all respectable editors and asks them to contradict a story that may take five or ten dollars out of his pocket at any time. Mr. Commissioner, in fact, advertises that the business of warrant making is carried on at the old stand, and that orders from Virginia will be promptly attended to. The original Commissioner is in the business still, and the public is warned against interlopers, who are circulating false reports in order to injure his trade. We do not say that this is reducing the law to the level of huckstering —we wouldn't do the huckster such injustice—but we do say that a man must be a very public creature whose passion for public service is not restrained by considerations too obvious to be mentioned."

It is not my habit to make explanations of the motives of my conduct, in any relation of life. I venture to think that I have sufficient character to ensure for my actions the respect of those whose respect is valuable, and I am content, for myself, to trust to its natural influence. But the state of public feeling in many parts of this Commonwealth is so extraordinary and so erroneous, that I think it right to say something upon these attempts to direct popular odium against those who are charged with the administration of a law of the United States. Two other leading Whig papers, the Springfield Republican and the Boston Atlas, are engaged in the same laudable undertaking. When it is seen, however, that there are those who are fully determined not to allow their sense of duty to be crushed by a tyrannical popular opinion, and who are as well able to decide a question of duty for themselves as others can be to decide it for them, perhaps a more manly, just and wholesome sentiment will be restored to the public mind.

The case of Burns had not been pending twenty-four hours before Judge Loring, when I saw that every effort would be made to drive him from the discharge of his duty, by exciting against him the worst passions of the community. Among the means employed for the purpose of increasing the popular odium sought to be heaped upon him, was the statement, originating in a quarter that I shall not name, that I

had declined, or was unwilling, or afraid to act. I did not choose that any one whatever should have an excuse for believing that Judge Loring was willing to sit in a case that another Commissioner had declined. I did not choose to leave him to the inferences or imputations that he, alone, of all the Commissioners, was willing to execute the law. I thought proper to place myself, as it were, by his side; and I therefore caused the statement and the inference to be contradicted. You imagine yourself to be so well acquainted with my motives or character, as to charge me with the fear of losing an occasional five or ten dollars. You never said anything wider from the truth, since you began to publish the New Bedford Mercury to this day; and that, to my knowledge, is a period of more than twenty years. I have been called upon, on several occasions, to act as Commissioner under the statute for the surrender of fugitives; but I never took a fee for any service under it, and I never shall take one, whether the claimant is successful or unsuccessful. This statement may possibly lead you to suppose, that in continuing to hold the office of Commissioner and to discharge its duties, I *may* be actuated by a public motive. I will suggest to you some facts, which may possibly aid you in coming to this conclusion.

There are some five or six Commissioners in the city of Boston, appointed by the Circuit Court to discharge certain functions essential to the administration of the judicial system of the United States. Of these Commissioners there are three or four who, from their age, and consequently, their longer experience in all kinds of judicial investigations, are more likely to be called upon to try these cases of extradition, than the others; but all of them have received, by their appointment, satisfactory evidence that they are regarded by the Court as fit to discharge the duties that pertain to their office. Undoubtedly they are so.

Mr. Hallett, who is one of the Commissioners, is also United States District Attorney, and is from that circumstance practically, though not legally, disqualified from sitting in these cases. The number of Commissioners in Boston, therefore, upon whom the painful duty of hearing and passing upon these cases rests, is small; and every one of them has to consider, that in throwing up his office, or refusing to act, he is depriving the community and the fugitive of a part of their best security against an ignorant, or passionate, or heedless, or unskillful admin-

istration of the law. For myself, while this law remains on the statute book, no amount of popular odium that can be excited against me by the press of the Commonwealth, of whatever name, will ever induce me to take a step, which will have any tendency to reduce its administration in the city of Boston into incompetent or unsafe hands. The office is of no value to me whatever;* but I believe it to be of some importance that I should continue to hold it while this law exists. I can truly say to this community, as was said by one whose relations were wider than those of any other man whom Massachusetts has ever numbered among her citizens:—"*Multo malo vos salvos esse, qualicumque ergo me animo futuri estis.*"

But you are not content with ostracising the Commissioners. The Marshal must also be embraced among the category of those who do "dirty and menial offices," which "gentlemen" should not do. Let me follow out your argument to its legitimate conclusions; for it is one with which a large portion of the people of this State are, at this moment, strangely misleading themselves. Because some of the judicial officers of the United States are required by law to discharge an exceptional and occasional duty of a painful character, no man who is a "gentleman" ought to be found in those offices. Yet there must be Marshals and Commissioners. The machinery of justice that depends upon, and is administered by, the authority of the United States, could not go on for a day without them. No crime committed on the high seas could be reached, no mail robber could be arrested, no suitor could prepare his cause—nothing could be done that involves the judicial system of the Federal Constitution, without these, its ministerial agents. What that system is,—what its relations are to a commercial people,—I hope and presume that the people of New Bedford are able to appreciate. What would become of their vast interests, afloat on the farthest regions of the farthest oceans of the globe, but for the superintending care that the Constitution of the United States extends over them? And what is the agent by which that care and protection are made practical and effective—stretching the arm of the law over the deck of every ship in the remotest seas—but the judicial system of the Federal Government? Yet you would have the ministerial offices of that system refused by one class of men and another, until they sink

* I have not received a dollar of income from it for more than two years, that I can now recollect or trace in my fee books.

into the hands of the lowest of mankind, and finally cease to be filled at all. Your argument would suit the opponents of capital punishment, who, upon the same reasoning might say, that no humane man should be a judge because he may be required to sentence a criminal to death; and then between you, the wheels of government and society would be brought to a very effectual stand.

But your argument may be followed to still another conclusion. The Constitution of the United States has solemnly provided that fugitives from service shall be given up. Do you mean to say that that was a "dirty" stipulation, into which we entered with the people of the slaveholding States, or do you only mean to say that it is a "dirty and menial office" to perform any service under a *law* which undertakes to execute that clause of the Constitution? If the latter is your meaning, then *no* law can be enacted, under which a Marshal, a Magistrate, or a Juryman could act, without performing a "dirty and menial office," unfit for a "gentleman." If it is a dirty employment to adjudicate or make an arrest under the present law, it must be equally "dirty" to adjudicate or arrest under any law. Whether the extradition is to be the result of the judgment of one man or of twelve men, it is still, upon your principles, only "the commencement of a life of suffering," and all who have any part to perform in it, are engaged in a transaction, the "comparative honor" of which is inferior to the act of strangulation. You hold out a poor prospect for the ameloration of the present statute; and if many of your Whig cotemporaries intend to teach the same doctrines, I am afraid that that political body will exert but small influence for its modification.

Some of the worst enemies of our institutions, as well as some of the fairest critics of the state of society in this country, have united in the observation that they are unfavorable to the growth of manly and independent character. A sweeping intolerant public opinion, it is said, bears down all individual freedom of thought, and no man is permitted to form and act upon his own ideas of duty. What is right, is to be decided by the public voice, not by the still small voice with which a man communes within the recesses of his own judgment; and he who does not exhibit a disposition to shape his actions and sentiments to meet the popular and imperious demand of the moment, is scourged by an unbridled press into submission to the judgment and conscience of the multitude. I will not say that this charge is, in general, true.

But when we see a magistrate in this Commonwealth of Massachusetts, derided, slandered in every form, burnt in effigy, and held up to popular hatred, for the simple discharge of a function which he could not have avoided, without an unmanly desertion of a duty to the community and to the fugitive who was sought to be taken, it is time for us to inquire whether some part of the accusation is not just. I say that Judge Loring, being a Commissioner, was *bound*, by every consideration of duty to the public and to Burns, to give his talents, experience, and legal knowledge to the fair trial of his case; and every man who seeks to injure him for doing it, is engaged in a contest against truth and duty, from which, be he who he may, he will come off worsted.

If you will place this letter in your columns, you will do an act of justice to one whom you have needlessly assailed. If you do not, I shall not grieve.

Your obedient servant,

GEORGE T. CURTIS.

II.

Boston, Jan. 14th, 1854.

TO THE EDITOR OF THE NEW BEDFORD MERCURY.

Sir,—You have printed the letter of the 7th inst., which I addressed to you through the Boston Courier, and in doing so, you have avowed two things:—First, that you did intend to apply to me the observations on which I commented in that letter; and second, that the purpose of your attack on me was to promote the repeal of the act for the surrender of fugitives, *by making its ministers odious.* With your expressions of contempt for me or my character, I shall not concern myself. It is to your doctrines and purposes that I mean to call public attention, being determined to put it to the common sense of the community to say whether they are just.

You have announced a principle of action new in our social history. We have had unpopular laws, made under our own constitutions of government by the regular action of the legislative power, before now; but this is the first time that it has ever been avowed, to my knowledge, that in order to get such laws repealed, those whose duty it has been to administer them must be made "odious." This doctrine is worthy of the examination of reflecting men. If it is a sound and just principle of action, there have been modern instances when it might have been applied. We have had, very recently, a law in this Commonwealth that was exceedingly oppressive, and that has lately been declared unconstitutional by our Supreme Court. Did anybody ever hear any of the opponents of that Liquor Law declare that a Justice, who issued the process which it required, must be made "odious" in order to get it repealed? And if a Justice of a Police Court in one of our cities had contradicted a rumor that he had refused to act under the law, would it have been thought quite decent to have denounced him as "outraging the feelings of the community?" I presume not. I presume you can find no precedent for the conduct which you avow and defend, except in times of revolution, when men's minds are made up to sweep away all barriers, whether of character or anything else, high and low, that stand between them and the overthrow of government.

You object to my having contradicted a statement that I had declined to fulfill the requirements of the office which I hold, as not called for by any obligation of "civil duty." You might have considered, before you made your attack upon me, whether you are so good a judge of another man's civil duty as he himself is;—whether you, at a distance from this community, can estimate the effect of my conduct upon this new question of the duty of "honorable and estimable men," in reference to the execution of an unpopular law:—and whether you are quite competent to decide, for me, that other question, of whether I did not owe it to my brethren and to the public, to make it known that I assent to no such doctrine, as that involved in these attempts to prevent the execution of a law by making its ministers personally "odious." You have not answered—probably you will find it difficult to answer—the reasons which I have assigned for contradicting a statement, which, if uncontradicted, would have justified the belief that I am ready to yield my sense of duty to the guidance of others, or be made "odious" if I do not yield it.

I repeat, that your doctrine, that "honorable and estimable men" must refuse to execute this law or be made "odious," can only tend to bring its administration into incompetent and unsafe hands, while it lasts, be that period longer or shorter. And I repeat again, that I never will do anything, to expose the persons who are the subjects of its administration to hands less competent than those with whom it now rests in this city. The present Commissioners are all competent to discharge the duties that belong to the office. If they were to resign, their places must be supplied; and if the sentiments you maintain are just, they would have to be supplied by men in whose decisions the public could have no confidence. You can go on to make me as "odious" as may be in your power; but you will never see me so untrue to my own sense of right, as to expose these fugitives to the chances of having this law administered *here*, in a manner less careful and cautious than it may now be. I leave others to consider how the repeal of this law is to be brought about. Circumstances have placed me in a position to exercise *some* influence on the manner of its administration, in this community. You may think that this presents to me no question of duty. I think it does, and I propose to abide by my own judgment.

It is not likely that I can have stood for several years in a position where I might be called upon at any moment, to act under this law,

and in which I have been more than once called upon, without having reflected carefully upon every personal question that can arise out of such circumstances, as well as upon the public questions involved. While its repeal would be a great relief to all who have anything to do with its administration, the question of its repeal is one that it has never been my duty to discuss. But there is one suggestion which I may properly make to all who desire to think and act rationally upon this subject. The repeal of this law must be followed by one of two consequences:—either the slave-holder must be left to exercise his naked power of recaption under the constitution, without legal process of any kind,—a power which has been expressly declared to belong to him by the Supreme Court of the United States—or some other tribunal must be empowered, by some other law, to arrest and adjudicate. Good men, who look to the peace and safety of society, would scarcely be willing to adopt the first of these alternatives. With the second, whatever the tribunal might be, there would be just as good reason for making the ministers of the law "odious," and for compelling "honorable and estimable men" to refuse to do what you call the "dirty" business of "negro-catching," as there is for attempting to effect the same object now. Indeed, considering the fact that the present law requires the same duties of the Judges of the United States Courts, as it does of the Commissioners, there is *now* the same reason for making the former "odious," as there is for making the latter. This has been tried. It will probably be tried again.

The venerable Judge Davis, who for more than forty years discharged the duties of U. S. District Judge for this district, with a purity and conscientiousness never excelled by man, himself surrendered fugitive slaves under the act of 1793. Do you think that if he had read in the New Bedford Mercury that he had performed a "dirty" action, that placid old man would have done anything but smile, at the folly which assails a public servant for the discharge of a duty imposed by law?

Perhaps it will surprise you, if I tell you that I have had relations with fugitive slaves, and with their friends, *not* of an official character. Perhaps you will think it strange, that all the efforts which have been made to hold me up as a monster of iniquity, and to make me "share the odium of the law," have not been able to prevent some of these men from coming to me with confidence for advice and aid, or to deprive me of the satisfaction of being instrumental, both by counsel and by more solid means, in the liberation of many a man, woman, and

child. In that intercourse, I have learned how mercilessly their individual interests are often sacrificed to the political purposes of the agitator; how their efforts to procure a lawful freedom through the benevolence of the charitable, are discountenanced and suppressed by their pretended friends; and how they have sometimes been kept in a state of harrowing fear, in order that their masters may be compelled to resort to the process of the law, and that there may be a great public disturbance thereupon. When the day of final account shall come, let me tell you that there may be other things to be investigated, as well as the performance of official duties. It is my opinion, that those who have had such duties to perform in this Massachusetts of ours, can afford to wait for that day.

In the mean time, my whole creed on these matters, so far as they involve questions of duty, may be involved in a few simple propositions.

1. I have sworn, in more than one capacity, to support the Constitution of the United States.

2. I believe every part of that Constitution to be binding upon my conscience as a citizen and a magistrate: and I find it contains a clause requiring the surrender of fugitives from service.

3. I conscientiously believe that the act of 1850 is a constitutional law; and in this, my own judgment has been instructed by the unanimous opinion of the Supreme Court of Massachusetts, and that of both the Judges of the Circuit Court of the United States for this circuit, not to mention many other tribunals.

4. I believe that a law, passed in pursuance of a provision and to discharge an obligation found in the Constitution, which imposes upon me a duty that I am able to perform, is binding upon me as a citizen, unless I am prepared to say that *no man* should obey it; and this I can say of no law, until a revolution is manifestly necessary and justifiable.

5. I believe that to refuse to discharge duties which must be discharged by somebody, and which, in case such refusal were to become general, we know would fall into hands less fit to discharge them faithfully and honestly, would be morally and civilly wrong.

If you know of any better rules of conduct than these, I can only say that they have not been taught in the school in which I have learned the principles of moral obligation.

I am, sir, your obedient servant,

GEORGE T. CURTIS.